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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KNABLE, GEOFFREY L

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,282

Applicant(s)

FISCHER, FLORIAN

Examiner

Geoffrey L. Knable

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1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, in describing the extent of the support assembly, reference is made to an end "at which a cutting device may perform a cutting operation". It however is not clear whether the claimed machine includes the cutting device as part of the claimed apparatus. At present, it would seem that it does not form part of the apparatus (as has been assumed for the prior art rejections) but clarification is required, particularly as the cutting device is again referred to in claim 2. If it is to form part of the claimed apparatus, it should be more clearly identified as such to avoid ambiguity in this regard.

Claims 2 and 8 use the phrase "in particular", it not being entirely clear whether the following language is merely a *preferred* claim requirement (i.e. not required to meet the claim) or is it a positive requirement of the claim that must be met. It will be assumed that the language following the "in particular" is a positive requirement of the claim but clarification is required.

In claim 7, the term "conventional" is considered to render the claim indefinite as the scope of what is and is not "conventional" cannot be readily ascertained (and changes with time).

In the last line of claim 8, no antecedent has been established for "the sensor".

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Barefoot (US 3,407,106) or Leguillon (US 2,346,439).

Barefoot discloses a tire building machine including a support for a tire carcass and a tread strip feed device which can be raised to bring the tread strip tangential with the carcass - note esp. figs. 2 and 9. As to the cutting device, as already noted, it is not considered that the claim requires this - in any event, Barefoot provides an upstream cutting device (22). This is considered to satisfy claim 1. As to claims 2-3 and 5, note the swing movement from the horizontal caused by underlying linkage 174-184. As to claim 7, note rollers "78".

Likewise, Leguillon discloses a tire building machine including a support for a tire carcass and a tread strip feed device which can be raised to bring the tread strip tangential with the carcass - note esp. fig. 1 and particularly the adjustable pivot for swing frame 17 (e.g. page 2, col. 2, lines 69+) which will provide a capability for being raised into tangential contact as claimed. As to the cutting device, as already noted, it is not considered that the claim requires this element but rather simply a capability to include such, such being considered to be met as one could certainly provide a cutting device above the conveyor if desired. This reference is thus also considered to satisfy claim 1. As to claims 2-3 and 5, note the swing movement from (or along) the horizontal caused by underlying linkage (17, 18, etc.) as well as movement provided by the adjustable pivot for "17" as well as adjustable length of swing frame "18". As to claim 7, note rollers "23".

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barefoot (US 3,407,106) or Leguillon (US 2,346,439).

As to claims 4 and 8, both references provide a piston to effect the desired swing movements but seem to provide manual control there over and thus do not suggest sensors to control the movements/approach to the carcass. It however is submitted that it would have been obvious to the ordinary artisan to include sensors to allow control of the swing movements for the obvious advantages that accompany automatic control, the inclusion of a proximity sensor on the end of the conveyor being the natural and obvious location for such since this is the part of the apparatus that is being moved to a location adjacent the carcass. As to claim 6, although the references do not suggest how far (i.e. as an absolute distance) the conveyor is from the carcass when separated, it is clear in each case that, as depicted, a significant distance should be provided, such being considered to render obvious distances greater than 20 cm as claimed.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vorih (US 5,221,407) and Miller (US 2,473,067) are other examples of tread conveyors raisable to bring the tread into tangential contact with carcass but are at present no more relevant than the applied prior art.

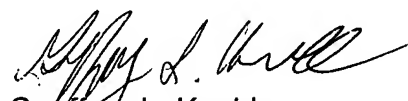
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Bosomworth (US 3,038,524) discloses a pivoting tread conveyor to bring the tread into tangential contact with the drum but the tread strip feed device is lowered rather than raised into this feed position.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 703-308-2062. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Geoffrey L. Knable
Primary Examiner
Art Unit 1733

G. Knable
November 1, 2003